

EXHIBIT 23

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

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NIKE, INC.,)
)
Plaintiff,)
)
vs.) No. 1:22-cv-00983-VEC
)
STOCKX LLC,)
)
Defendant.)
_____)

H I G H L Y C O N F I D E N T I A L

OUTSIDE ATTORNEYS' EYES ONLY

STOCKX 30(b)(6) VIDEOTAPED DEPOSITION OF BROCK HUBER
SAN FRANCISCO, CALIFORNIA
WEDNESDAY, FEBRUARY 22, 2023

STENOGRAPHICALLY REPORTED BY:

ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR ~
CSR LICENSE NO. 9830
JOB NO. 5688666

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vs.) No. 1:22-cv-00983-VEC
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STOCKX LLC,)
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Defendant.)
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StockX 30(b)(6) Videotaped Deposition of
Brock Huber, taken on behalf of the Plaintiff,
Pursuant to Notice, on Wednesday, February 22,
2023, beginning at 8:40 a.m., and ending at
4:43 p.m., before me, ANDREA M. IGNACIO, CSR, RPR,
CCRR, CRR, CLR ~ License No. 9830.

1 A You know, if you -- if you wanted to review
2 any of the financial statements we provided in
3 specific detail, I'd be happy to do that.

4 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

10 Q Okay. When a seller has a product rejected
11 because it is determined to be inauthentic, what is
12 that seller told about the product it attempted to
13 sell?

14 MS. BANNIGAN: Objection to form.

15 THE WITNESS: I think -- I think there's
16 generally a misunderstanding. And -- and -- and for
17 sure I saw this when we would talk, as an example,
18 with the investor community around our verification
19 process.

20 So our verification process -- well, it's
21 actually probably easier to take a step back at sort
22 of the history of marketplaces to begin with.

23 So prior to the founding of StockX, it was
24 very difficult to transact in limited edition
25 sneakers, other collectibles, in a safe way.

1 And, you know, speaking -- this is my own
2 personal experience as someone who was interested in
3 the stuff since I was in middle school and high
4 school.

5 You know, we -- we had to -- people who are
6 interested in sneakers, a sneakerhead, as I identify
7 myself, we spent time on Internet forums: NikeTalk,
8 InStyle Shoes.

9 And if you wanted to purchase these shoes,
10 which were primarily -- they're almost always, in all
11 cases, sold out instantly upon release -- you would
12 literally agree through private messages and, believe
13 it or not, send a money order to a stranger on the
14 Internet and hope that you were going to receive
15 product, hope the product you were going to receive
16 were -- that you received was what was promised.

17 If you fast-forward a little bit, the early
18 iterations of marketplaces came to be. And those
19 marketplaces were in a posture where they would
20 remediate issues that a buyer and seller might have
21 after the fact.

22 So if the seller and buyer agreed to a
23 transaction around a pair of Air Jordan 1s in the
24 powder blue color or whatever you want to choose as an
25 example, the seller would effectively ship whatever

1 MS. BANNIGAN: Objection.

2 THE WITNESS: Yeah. So again, we -- we sit
3 in the middle of every transaction. We authenticate,
4 verify every single item that's sold on the platform.

5 And so what that process looks like is, every
6 time a seller and a buyer agree on a price for an
7 item, that seller is then required to ship that item
8 to one of our authentication centers, which is what we
9 have always called them and which is what we call them
10 today.

11 In that process, we have a team of highly
12 trained and technology-enabled authenticators that
13 check for a variety of factors.

14 The most common issues we would have in the
15 authentication verification process would be that the
16 wrong item is sent in. The item has been used prior
17 to being shipped in, and we only accept brand-new
18 items. And we also check for discrepancies, such as
19 manufacturing defects.

20 MS. DUVDEVANI: Unbelievable.

21 THE WITNESS: We attempt to correct for items
22 that have enough variation in them that, according to
23 our standard, we think they may appear to be
24 inauthentic.

25 And if we find an item that doesn't meet,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5 MS. DUVDEVANI: Q. Do you explain why it
6 failed the inspection?

7 A We give some level of detail, but it is not
8 always entirely specific.

9 Q What do you mean by "some level of detail"?

10 A We may say, as an example, "Variation in
11 materials."

12 Q Do you give any more details than that?

13 A Generally speaking, no. No -- nothing too
14 specific.

15 Q Why not?

16 A The main takeaway when that happens is that
17 the item is not eligible to transact on our platform.
18 And the seller is notified that it's not eligible and
19 is given the opportunity to, in some cases, pay. In
20 other cases, we waive the fee to have that item
21 shipped back to them where it's clear it's not
22 welcomed to be transacted on our platform.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

8 So we have heard anecdotes of folks
9 purchasing something, as an example, directly from an
10 Adidas store and coming to StockX to sell it and it
11 failing our authentication and verification process.

12 So it is not our job, our position, our role
13 to -- when a consumer provides an item that
14 potentially may be inauthentic and is a low-volume
15 seller and what we would just call a typical consumer,
16 to confiscate that property, because we're not legally
17 designating it as a counterfeit item.

18 We are saying, This is not welcomed to be
19 transacted in our platform. If you'd like to pay a
20 fee, you may have your item back.

21 MS. DUVDEVANI: Q. How come StockX doesn't
22 give -- well, strike that.

23 Is it your testimony that StockX doesn't
24 provide more details about why they determine that a
25 potential product is inauthentic to the seller?

1 MS. BANNIGAN: I'm just going to caution you
2 not to get into any privileged information. So just
3 facts.

4 THE WITNESS: Sure.

5 I don't think that my list of reasons was
6 exhaustive. I do not have, off the top of my head,
7 every code that we could potentially provide via
8 e-mail to a customer about why an item failed
9 authentication.

10 But it is, to the best of my knowledge, that
11 we do not send an e-mail that would tell a customer
12 that their product was fake.

13 MS. DUVDEVANI: Q. Why not?

14 A Again, it's a part of our process. The point
15 of the process is to deem items, according to our
16 standard, eligible to be traded on our platform.

17 And if an item has characteristics that might
18 make our authentication team suspicious, we will not
19 allow it to trade.

20 In that process, we may block items that the
21 brand, such as Nike, would call authentic. We may
22 also block items that Nike as a brand may call
23 inauthentic.

24 Q How do you know what items Nike would call
25 authentic or inauthentic?

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1 how we are going to communicate with our customer
2 base, drive a good experience.

[illegible]

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[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

10 Q If StockX did not guarantee the authenticity
11 of the Nike brand products it enables the selling of,
12 would any of the costs allocated to the revenue in
13 this exhibit be avoided?

14 MS. BANNIGAN: Objection to form.

15 THE WITNESS: As a general response that I
16 believe answers your question, StockX has invested
17 hundreds of millions of dollars to the development of
18 and execution of our proprietary authentication and
19 verification process.

20 Prior to our existence, there was no scaled
21 or reputable marketplace player that conducted
22 authentication and verification for every product that
23 sold on its marketplace.

24 And due to the experience that we provided,
25 we have lifted the level of competition around us, and

1 other marketplaces have begun to offer a competing
2 service that presumes to identify -- or to
3 authenticate and verify items sold on their platform.

4 So the overall impact of StockX relative to
5 consumer fraud and the buying and selling of items
6 that may appear to be inauthentic has been improved by
7 our existence.

8 We have made it more difficult for bad actors
9 to exist. We have helped lift the entire industry
10 around us. And we believe that that not only protects
11 our consumers, but also provides benefits to creators
12 of branded product everywhere.

13 MS. DUVDEVANI: Q. What's your factual basis
14 to testify under oath that you've made it more
15 difficult for bad actors to exist when you've offered
16 bad actors a platform with which to sell counterfeit
17 products?

18 MS. BANNIGAN: Objection to form.

19 THE WITNESS: Well, I think that the way that
20 you said that was, if not completely opposite of the
21 truth, pretty close.

22 MS. DUVDEVANI: Q. How so?

23 Let me ask you this, Mr. Huber: Your -- your
24 authenticators claim to stop thousands of fake
25 products from getting to consumers a month; correct?

1 other marketplaces felt competitive pressure to also
2 create these types of services for their customers.

3 Q Has there been a decrease in the number of
4 fake products that are sent to authentication centers
5 over the years or an increase in the number of
6 products that are sent to authentication centers over
7 the years?

8 MS. BANNIGAN: Objection to form.

9 THE WITNESS: So, you know, I -- I'd prefer
10 to look at specific documents that -- that may -- to
11 the extent we've produced them, that may quantify the
12 specifics.

13 However, at the very least, anecdotally, to
14 my knowledge, we originally saw a higher percentage of
15 fakes coming through our platform as -- or -- sorry --
16 not fakes -- items that appeared to be inauthentic, as
17 fraudsters initially tested the quality of our
18 authentication and verification process in the early
19 days of the StockX platform.

20 However, we have policies in place that
21 punish and ban sellers who attempt to not uphold their
22 end of the sales contract: either not shipping it to
23 us, shipping the wrong item, shipping the wrong size,
24 shipping it used, shipping without accessories,
25 shipping it with a missing or damaged box, shipping a

1 product that has significant variances, so as to raise
2 suspicion of our authentication process.

3 And -- and so we -- by punishing these
4 sellers through penalty fees, through outright
5 banning, it has become a less -- we have become a less
6 desirable avenue.

7 MS. DUVDEVANI: Q. Isn't it possible that
8 the sellers of counterfeit products have just gotten
9 more sophisticated, and you don't know --

10 MS. BANNIGAN: Objection --

11 MS. DUVDEVANI: Q. -- that additional fakes
12 are being passed through your platform?

13 MS. BANNIGAN: Objection to form.

14 THE WITNESS: We have the utmost confidence
15 in our authentication process: the way it's been
16 designed, the way that our team members that work in
17 the authentication centers are trained, from the
18 [REDACTED] training window that they're required to
19 complete in order to become a lane one authenticator,
20 to the stand -- the weekly standup meetings, to the
21 weekly/biweekly bulletins we post, to the standard
22 guides that we provide around many brands of product
23 that we authenticate and verify, across the many
24 categories that we authenticate and verify.

25 We do recognize that the folks who have

1 anyone doing this prior to our success in removing
2 some of the friction points around purchasing the --
3 the items in the categories in which we transact.

4 And because we've started doing it, and
5 because we took a stand against unverified product,
6 many other competitors have joined our industry in the
7 secondary market and attempted to replicate our
8 authentication and verification process and have their
9 own authentication and verification processes.

10 Q Is authentication important to your
11 consumers?

12 A It is very important to the experience that
13 every item that transacts on our platform go through
14 our authentication and verification process to correct
15 for the potential areas of disappointment for a buyer:
16 wrong size, wrong color, wrong product, missing
17 accessories, damaged, manufacturing defect, other
18 variances. And we correct for those before the buyer
19 takes receipt of the product.

20 And that is one of the main -- one of the key
21 reasons why you would transact on StockX as opposed to
22 in person at your local mall parking lot or on another
23 platform that does not have the same commitment to
24 authentication and verification.

25 Q And underneath that bullet point, it says:

1 (As read) :

2 "Proven in-house authentication process has
3 an accuracy rate of 99.95%."

4 How is that percentage calculated?

5 A That particular stat is based on customers'
6 feedback.

7 Q What type of customer feedback?

8 A If a customer contacts our customer service
9 with an issue, and we are able to validate their
10 issue, we take that item back as a return. We refund
11 them their money.

12 And we record that our authentication and
13 verification process made a mistake, and that would be
14 eliminated from that -- the number of mistakes would
15 be eliminated from the numerator. The number that was
16 correct would be the numerator, and we would divide it
17 by the total transactions that we saw, and that would
18 give you that rate.

19 Q Any other data that goes into that
20 99.95 percent accuracy rate?

21 A That particular stat is calculated only in
22 the way I've just described it.

23 MS. DUVDEVANI: Okay. Let's take a break. I
24 might be done.

25 MS. BANNIGAN: Okay.